

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 22 October 2004

CASE NO.: 2004 TSC 8

In the Matter of

NEAL MCDOWELL
Complainant

v.

GATES CORPORATION
Respondent

Appearances: Mr. Neal McDowell, *Pro Se*

Mr. Cary Schwimmer, Attorney
Ms. Mary C. Kloepper, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

**DECISION AND ORDER
APPROVING SETTLEMENT AND DISMISSING COMPLAINT**

This case arises under Section 2622 (B) (2) (A) of the Toxic Substance Control Act ("TSC"), 15 U.S.C. § 2622, as implemented by 29 C.F.R. Part 24.¹ After several continuances, I set a hearing date of November 3, 2004 for this case in Louisville, Kentucky. On October 6, 2004, I received notice that the parties had entered into a settlement agreement and Mr. McDowell requested that his complaint be dismissed. On October 22, 2004, I received a copy of the settlement agreement.

In their settlement, the parties have agreed to keep the terms of settlement agreement confidential, with limited exceptions. Notwithstanding the parties' understanding, and though I have sealed the agreement, the settlement agreement is part of the record of this case and subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 522 (1988). If a FOIA request is made for the settlement agreement, the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption. *See Debose v. Carolina*

¹Mr. McDowell's complaint also included allegations of violations of the employee protection provisions in the Federal Water Pollution Control Act, 33 U.S.C. § 1367, and the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9610.

Power and Light Co., 92 ERA 14 (Sec'y February 7, 1994) and *Darr v. Precise Hard Chrome*, 95 CAA 6 (Sec'y May 9, 1995).

Upon my review of the terms of the agreement, I find the provisions are fair, adequate, reasonable and not contrary to public interests. Accordingly, I approve the settlement agreement. The hearing scheduled for November 3, 2004 is cancelled. The TSC complaint of Mr. Neal McDowell is **DISMISSED** with prejudice.

SO ORDERED:

A
RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: October 22, 2004
Washington, D.C.